

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

**ROBERT BERG,
Plaintiff**

**vs.
M&F WESTERN PRODUCTS, INC.,
Defendant**

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Case No. 6:19-cv-418-JDK

**SUPPLEMENTAL DECLARATION OF JOHN HARDIN IN SUPPORT
OF M&F WESTERN'S MOTION FOR ATTORNEYS' FEES AND COSTS**

I, John Hardin, do hereby declare, under the penalties for perjury under the laws of the United States of America, as follows:

1. I am above the age of 21, and fully competent to make this declaration.
2. All facts stated herein are within my personal knowledge and are true and correct.
3. I submitted a Declaration dated February 5th ("First Hardin Declaration") in support of M&F Western's Motion for Attorneys' Fees and Costs for the work described in the First Hardin Declaration. I am providing this Supplemental Declaration in support of the attorneys' fees incurred to date in the months of January 2021-February 2021 in preparing the instant Motion.
4. In particular, attached hereto as Exhibit A is a true and correct copy of the invoice for fees for January 2021-February 5, 2021, with the latter being the filing date of the Motion. I have reviewed the invoices and the time spent by the M&F Western attorneys and assistants, who were identified in the First Hardin Declaration, in preparing the Motion, and the tasks and time were reasonable and necessary. The invoices reflect the total fees set forth below:

<u>Invoice No.</u>	<u>Month of Service</u>	<u>Total Attorneys' Fees for Invoice</u>
6340803	January 2021- February 5, 2021	\$25,161.00
Total Sought for January 2021 + February 1-5, 2021 attributable to Motion for Fees		\$25,000

5. As noted in the First Hardin Declaration, M&F Western estimated that its fees associated with preparation of the Motion would be approximately \$25,000. First Hardin Declaration at ¶ 11. To date, fees associated with preparation of the Motion are slightly above \$25,000, and M&F Western has not yet prepared its Reply in support of its Motion (which will require additional time). Thus, the estimated attorney fees of \$25,000 sought for preparing the Motion is reasonable. M&F Western has rounded the total in ¶ 6 above down to \$25,000. The total Fees and Costs sought pursuant to the Motion, as indicated in the First Hardin Declaration, remains: **\$483,808.20**. *Id.* at ¶ 11 and ¶ 15.

[Signature page follows]

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 18th day of February 2021

By: /s/ John R. Hardin

John R. Hardin
Texas Bar No. 24012784
JohnHardin@perkinscoie.com
PERKINS COIE LLP
500 N. Akard Street, Suite 3300
Dallas, TX 75201
Phone: 214-965-7700
Facsimile: 214-965-7799

Attorneys for M&F Western Products, Inc.

Certificate of Service

I hereby certify that on February 18, 2021, I electronically filed the foregoing document with the Clerk of the Court by using the CM/ECF system which will send electronic notice of such filing to all counsel of record.

Richard Liebowitz
LIEBOWITZ LAW FIRM, PLLC
11 Sunrise Plaza, Suite 305
Valley Stream, New York 11580
Tel: (516) 233-1660
RL@LiebowitzLawFirm.com
Attorneys for Plaintiff Robert Berg

/s/ John R. Hardin

John R. Hardin

EXHIBIT A

1201 Third Avenue, Suite 4900
Seattle, Washington 98101
Phone: 206.359.8000

Email: clientacct@perkinscoie.com
Accounting: 206.359.3143
Fax: 206.359.9000

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M & F Western Products
Attn: Paul Eddins
P O Box 208
Sulphur Springs, TX 75483

Invoice No.	6340803
Matter No.	064984.7008
Bill Date	February 17, 2021
Due Date	Due Upon Receipt

INVOICE SUMMARY

Re: 064984.7008 / Robert Berg (Cross Design) Copyright Complaint

For Professional Services rendered through February 5, 2021

Services	\$25,161.00
Disbursements and Other Services	\$30.60
Total Invoice Amount	\$25,191.60

REDACTED

Invoice No. 6340803
M & F Western Products
064984.7008 / Robert Berg (Cross Design) Copyright Complaint

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Professional Services through 02/05/2021

Date	Attorney / Assistant	Description of Service	Hours
01/02/2021	J. Jennison	Review article regarding attorneys' fees awards (.1);	0.10
01/04/2021	K. Larson	Begin research regarding Motion for Costs and Fees;	0.70
01/05/2021	J. Jennison	Team call regarding request for fees (.7);	0.70
01/05/2021	K. Larson	Conference regarding strategy regarding motion for costs and fees; continue research regarding same; begin drafting Declaration of J. Hardin in support of same;	1.20
01/05/2021	J. Hardin	Work session on request for attorney's fees with internal team;	0.80
01/06/2021	K. Larson	Continue drafting Motion for Fees and Costs;	4.00
01/12/2021	K. Larson	Continue drafting Motion for Costs and Fees;	2.40
01/12/2021	J. Hardin	Prepare for and attend telephone conference regarding attorneys' fees and tomorrow's hearing;	0.80
01/13/2021	K. Larson	Attend telephonic status conference; further conference regarding same;	0.50
01/13/2021	J. Hardin	Attend hearing; work session with client; update to team;	0.90
01/13/2021	J. Walker	Locate billing rate surveys for K. Larson;	0.70
01/15/2021	T. Brandon	Confer with K. Larson regarding research for cost and fees motion; conduct research in support of motion;	0.80
01/15/2021	K. Larson	Continue drafting motion Motion for Costs and Fees; research regarding same;	5.00
01/19/2021	T. Brandon	Confer with K. Larson regarding evidence for motion for attorneys fees;	0.20
01/19/2021	K. Larson	Continue drafting Motion for Costs and Fees; conference regarding Motion for Costs and Fees;	0.50
01/20/2021	T. Brandon	Research document productions for motion for attorneys fees/costs;	0.50
01/20/2021	J. Hardin	Work session on status (.2); initial review of briefing on attorney's fees (.5);	0.70
01/25/2021	J. Jennison	Call with K. Larson regarding motion for fees (.5); email K. Larson regarding briefing schedule (.1);	0.60
01/25/2021	K. Larson	Conference regarding Motion for Costs and Fees; correspond with opposing counsel regarding Stipulated Motion Regarding Briefing Schedule for Motion for Costs and Fees; draft same and draft proposed order in support of same; continue drafting Motion for Costs and Fees; revise Hardin Declaration in support of same; redact invoices for privilege;	2.50
01/25/2021	J. Hardin	Strategy and planning regarding briefing schedule;	0.20
01/25/2021	G. Auslander	Bluebook format citations and shepardize cases, as well as confirm	1.60

Invoice No. 6340803
M & F Western Products
064984.7008 / Robert Berg (Cross Design) Copyright Complaint

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Date	Attorney / Assistant	Description of Service	Hours
		accuracy and format of legal pincites for Motion for Costs and Fees;	
01/26/2021	K. Larson	Revise motion for costs and fees; conference regarding same; conference regarding Hardin Declaration in support of same; continue drafting Hardin Declaration;	4.00
01/26/2021	J. Hardin	Work session with K. Larson regarding Motion for Fees;	0.30
01/28/2021	J. Hardin	Work session on Motion and Declaration related to fees;	0.50
01/29/2021	K. Larson	Conference regarding Motion for Costs and Fees; revise same per input from J. Hardin; conference regarding Hardin Declaration in support of same;	1.50
01/29/2021	J. Hardin	Review and revise motion on Fees;	4.00
02/01/2021	T. Brandon	Research catalogs from M&F/Crumrine; confer with K. Larson regarding same;	0.20
02/01/2021	K. Larson	Continue drafting Motions for Costs and Fees per input from J. Hardin; update Declaration of J. Hardin in support of same;	1.50
02/02/2021	J. Jennison	Review and revise draft motion for fees (.7); email team regarding same (.1);	0.80
02/02/2021	K. Larson	Conference regarding Motion for Costs and Fees; continue drafting same per input from J. Hardin; revise Declaration of J. Hardin in support of same; conference regarding survey evidence supporting rates;	1.50
02/02/2021	J. Hardin	Review and finalize draft Declaration (.4); work session with team regarding next steps (.6);	1.00
02/03/2021	T. Brandon	Confer with K. Larson regarding preparing exhibits for motion for costs;	0.40
02/03/2021	K. Larson	Revise Motion for Costs and Fees per input from J. Jennison; revise Declaration of J. Hardin regarding invoices and fees sought; conference regarding E. Frenzel Declaration; correspond with P. Eddins regarding Motion for Costs and Fees; conference regarding revisions to J. Hardin Declaration;	2.50
02/04/2021	T. Brandon	Prepare invoices for Motion for Costs; begin finalizing J. Hardin declaration; confer with team regarding same;	3.20
02/04/2021	K. Larson	Telephone conference with P. Eddins regarding draft Motion for Costs and Fees; revise same per input from P. Eddins; revise Declaration of E. Frenzel; revise Declaration of J. Hardin; conferences regarding invoices, redactions, and Hardin Declaration;	2.50
02/05/2021	T. Brandon	Continue finalizing J. Hardin declaration; prepare Appendix in Support of Motion for Costs; confer with team regarding same;	2.00
02/05/2021	K. Larson	Confer with P. Eddins regarding Motion for Costs and Fees; finalize same for filing; finalize Hardin Declaration for filing; finalize Frenzel Declaration for filing;	2.00

Invoice No. 6340803
M & F Western Products
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Total	53.30
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Services
\$25,161.00

Summary of Services through 02/05/2021

Attorney / Assistant	Billed Hours	Billed Rate	Billed Amount
J. Jennison	2.20	955.00	2,101.00
J. Hardin	9.20	885.00	8,142.00
Partner	11.40		10,243.00
K. Larson	32.30	385.00	12,435.50
Associate	32.30		12,435.50
G. Auslander	1.60	295.00	472.00
T. Brandon	7.30	250.00	1,825.00
Paralegal	8.90		2,297.00
J. Walker	0.70	265.00	185.50
Indirect Staff	0.70		185.50
Total Services	53.30		\$25,161.00

Disbursements and Other Detailed Services through 01/31/2021

Description	Amount
Computer research - Lexis/WestLaw	30.60
Total	\$30.60

Total Disbursements and Other Services
\$30.60

Total Invoice Amount
\$25,191.60